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Public Disclosure Commission

Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

February 10, 2006

66-319

Vicki Rippie
Executive Director
Public Disclosure Commission
PO Box 40908
Olympia, WA 98504-0908

RE: Richard Pope 45 Day Letter – Dwight Pelz

Dear Ms. Rippie:

The Attorney General's Office has received a second complaint from Mr. Richard Pope against Dwight Pelz. The complaint alleges violations of the Public Disclosure Law, Ch. 42.17 RCW, and was filed pursuant to RCW 42.17.400(4). As you know, RCW 42.17.400(4) requires action on the complaint within 45 days of its receipt. In this case, the complaint was received on February 7, 2006. I understand that you have received a copy of the letter by email, and as such, have not provided a separate copy.

As is customary with these types of complaints, we are referring the complaint to your agency for investigation. We will await the results of your investigation before proceeding further. In the event the Commission determines that it is appropriate to schedule an administrative hearing, please advise. Otherwise, I would request the Commission's recommendation with the report of investigation be forwarded to the Attorney General when it is complete. Please note that Mr. Pope has indicated that in the event action is not brought within 45 days, he will pursue a citizen's action under RCW 42.17.400.

I have been assigned the file in our office. I am available to answer any legal questions you may have during the course of your investigation.

If you have any questions, please do not hesitate to call me at (360) 753-0543.

Sincerely,


LINDA A. DALTON
Sr. Assistant Attorney General

LAD:eg

cc: Richard Pope
Rob McKenna, Attorney General
Jeff Goltz, Deputy Attorney General
Norm Maleng, King County Prosecuting Attorney
Ed Holm, Thurston County Prosecuting Attorney



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Richard L. Pope, Jr.
1839 - 151st Avenue, S.E.
Bellevue, Washington 98007

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February 3, 2006

Honorable Robert M. McKenna
Attorney General of Washington
1125 Washington Street, S.E.
Post Office Box 40100
Olympia, Washington 98504

Re: Citizen Action Letter, RCW 42.17.400(4)
Dwight Pelz, 2001 King County Council Campaign

Dear Attorney General McKenna:

This letter concerns Dwight Pelz and his campaign for King County Council, Position 5, for the November 6, 2001 general election. Mr. Pelz was appointed to that office in early 1997 and elected to a full four year term in November 1997. Prior to that Mr. Pelz was elected to the Washington State Senate in November 1990 and November 1994. Mr. Pelz filed for re-election to the King County Council in 2001, won the primary election on September 18, 2001 and the general election on November 6, 2001.

I am sending this written notification pursuant to the citizen action provisions of RCW 42.17.400(4) to inform you that I have reason to believe that Dwight Pelz may have violated the provisions of RCW 42.17.080 and RCW 42.17.090 by failing to timely report tens of thousands of receipts and expenditures and by omitting several required monthly and other periodic reports altogether. In addition, Mr. Pelz failed to allow public inspection of his campaign finance books and records for the eight day periods before the primary election and the general election as required by RCW 42.17.080(5).

Mr. Pelz filed a C1 candidate registration form with the Public Disclosure Commission (PDC) on January 13, 1999, seeking re-election to King County Council Position No. 5. Mr. Pelz filed an amended C1 candidate registration form with the PDC on December 15, 2000. Neither of these C1 candidate registration forms did not contain the address and hours of the days that Mr. Pelz's campaign books and records would be open to public inspection, as required by RCW 42.17.040(2)(i), nor did Mr. Pelz ever file a subsequent C1 with the PDC containing any of this information.

Due to Mr. Pelz's refusal to provide any of this information to the PDC, the general public was thereby denied its right under RCW 42.17.080(5), to inspect Mr. Pelz's campaign finance books and records for his 2005 King County Council campaign for the eight day periods immediately preceding both the September 18, 2001 primary election and the November 6, 2005 general election.

Mr. Pelz received \$1,903.71 in interest earnings on his campaign funds during the period of July 1999 to August 2002. None of these interest earnings (or the cash balances resulting from the interest deposits) were reporting to the PDC until October 10, 2002.

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Mr. Pelz earned \$114.13 interest in 1999 and \$507.92 interest in 2000. These interest earnings should have been reported on Mr. Pelz's monthly PDC filings during 1999 and 2000 under RCW 42.17.080 and RCW 42.17.090. Of course, there is a five year statute of limitations under RCW 42.17.410, and it is now too late to proceed against Mr. Pelz for failure to report his interest earnings during 1999 and 2000.

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Mr. Pelz earned another \$894.34 in interest during 2001. This was an average of \$74.53 per month of interest earnings, which should have been reflected on each of Mr. Pelz's monthly or other periodic reports under RCW 42.17.080 and RCW 42.17.090. However, Mr. Pelz did not report any of this interest until October 10, 2002. At the present time, any periodic reports required on or after February 12, 2001 (the due date for the January 2001 report) can still be prosecuted in five years under RCW 42.17.410.

It should be noted that, under RCW 42.17.080(2)(c), the mere receipt of interest does not trigger a monthly reporting obligation. This would apply only if "contributions" since the last report exceed \$200.00 (or expenditures exceed \$200.00). And interest is not considered a "contribution" under RCW 42.17.020(15)(b). However, if a periodic campaign finance report is otherwise required, then interest needs to be reported as a part of "cash received" and as a bank deposit, and the amount of interest on deposit needs to be included as part of the "cash on hand" balance by the campaign at each period's end.

Mr. Pelz attempted to obfuscate his failure to report periodic interest payments during 1999, 2000, and 2001 by filing some false reports on October 11, 2002. Mr. Pelz filed a false C4 report and Schedule A for the period January 1, 2002 to August 31, 2002. Mr. Pelz falsely stated on his Schedule A that he had deposited \$1,516.39 in interest on January 6, 2002, and incorporated this same false figure into the cash received portion of his C4 report. Mr. Pelz also filed a false C3 report for a non-existent bank interest deposit on January 6, 2002, which included six interest payments allegedly received on January 1, 2002, January 2, 2002, January 3, 2002, January 4, 2002, January 5, 2002 and January 6, 2002. In reality, none of this interest was received during January 2002.

Instead, this \$1,516.39 actually consisted of \$114.13 interest received in 1999, \$507.92 interest received in 2000, and \$894.34 interest received during 2001. Mr. Pelz should have filed corrected C4 reports and Schedule A's, along with addition C3 reports, for each of the reporting periods during 1999, 2000 and 2001, where he had omitted interest receipts, instead of falsely reporting all of these amounts as being received during January 2002. Mr. Pelz should have also corrected the "cash on hand" balances in each of these reports, since they did not include any of the interest that had accrued to date.

In addition to failing to report interest when received, and failing to include accrued interest in his "cash on hand" balances, Mr. Pelz filed numerous of his periodic campaign finance reports late, filed numerous C3 contribution reports late during the time they were required to be filed weekly, and included incorrect expenditure and "cash on hand" balances on various reports due to reasons other than failure to report interest.

I will now go through each of Mr. Pelz's periodic campaign finance reports, and explain the various violations of reporting requirements that pertain to each such report.

Mr. Pelz filed a timely C4 report and supporting schedules for January 2001 on February 12, 2001. However, Mr. Pelz failed to report interest of approximately \$74.53 received during January 2001. The "cash on hand" balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$74.53 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October

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11, 2002, or 606 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amount during January 2001.

Mr. Pelz received \$7,985.00 (not including interest) during February 2001, and spent \$75.00. Under RCW 42.17.080(2)(c), Mr. Pelz's C4 report and supporting schedules were due on March 12, 2001, but were not filed until March 14, 2001, or 2 days late. In addition, Mr. Pelz failed to report interest of approximately \$74.53 received during February 2001. The "cash on hand" balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$149.06 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 578 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amount during February 2001.

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Mr. Pelz received \$5,845.00 (not including interest) during March 2001, and spent \$1,714.14. Under RCW 42.17.080(2)(c), Mr. Pelz's C4 report and supporting schedules were due on April 10, 2001, but were not filed until April 12, 2001, or 2 days late. In addition, Mr. Pelz failed to report interest of approximately \$74.53 received during March 2001. The "cash on hand" balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$223.59 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 549 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amount during March 2001.

Mr. Pelz filed a timely C4 report and supporting schedules for April 2001 on May 11, 2001. However, Mr. Pelz failed to report interest of approximately \$74.53 received during April 2001. The "cash on hand" balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$298.12 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 518 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amount during April 2001.

Mr. Pelz filed a timely C4 report and supporting schedules for May 2001 and June 2001 on July 10, 2001. However, Mr. Pelz failed to report interest of approximately \$74.53 received during May 2001 and approximately \$74.53 received during June 2001. The "cash on hand" balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$447.18 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 458 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amounts during May 2001 and June 2001.

Mr. Pelz filed a timely C4 report and Schedule A for the period of July 1, 2001 to July 31, 2001 on August 10, 2001. In fact, this report was 18 days early, since this activity did not need to be reported until August 28, 2001 (or 21 days before the primary election). However, Mr. Pelz failed to report interest of approximately \$74.53 received during July 2001. The "cash on hand" balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$521.71 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 409 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amounts during July 2001.

Mr. Pelz deposited \$2,225.00 in contributions from 11 named persons on July 20, 2001. Under RCW 42.17.080(3), Mr. Pelz was required to file a C3 report to report these by Friday, July 27, 2001. However, Mr. Pelz did not file this C3 report until August 10, 2001, or 14 days after this report was due.

Mr. Pelz made two bank deposits totaling \$1,925.00 on July 30, 2001 – \$1,000.00 from 4 named persons, and \$925.00 from 9 named persons and 1 unnamed person. Under RCW 42.17.080(3), Mr. Pelz was required to file a C3 report to report these by Friday, August 3, 2001. However, Mr. Pelz did not file this C3 report until August 10, 2001, or 7 days after this report was due.

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Mr. Pelz made two bank deposits totaling \$6,375.00 on August 15, 2001 – \$375.00 from 5 named persons and 1 unnamed person, and \$6,000.00 from 10 named persons. Under RCW 42.17.080(3), Mr. Pelz was required to file a C3 report to report these by Friday, August 17, 2001. However, Mr. Pelz did not file this C3 report until August 18, 2001, or 1 day after this report was due.

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Mr. Pelz filed a timely 21 day pre-primary report on August 28, 2001. However, Mr. Pelz failed to report interest of approximately \$74.53 received during August 2001. The “cash on hand” balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$596.24 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 409 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amounts during August 2001.

Under RCW 42.17.080(2)(a), Mr. Pelz was required to file a 7 day pre-primary report on September 11, 2001, and report all receipts and expenditures up through September 10, 2001. Mr. Pelz did not file this C4 report and supporting schedules until September 12, 2001, or 1 day late. Mr. Pelz received \$3,315.00 and spent \$29,019.09.

Mr. Pelz also received a \$152.22 in-kind contribution from Washington NARAL PAC on or before September 4, 2001. At the latest, this in-kind contribution should have been reported by Mr. Pelz through a Schedule B filed with his 7 day pre-primary report due on September 10, 2001. Mr. Pelz did not file a Schedule B to report this in-kind contribution until December 20, 2001 – reporting it instead as part of a report for the period of November 2001. This Schedule B was filed 101 days after the due date.

Under RCW 42.17.080(2)(a), Mr. Pelz was required to file a 21 day pre-general report on October 16, 2001, and report all receipts and expenditures up through October 9, 2001. Instead, Mr. Pelz filed a C4 report and supporting schedules on October 9, 2001, and only reported receipts and expenditures through September 30, 2001. Mr. Pelz did not file a C4 report covering the period of October 1, 2001 through October 9, 2001 until November 13, 2001, which was 28 days past the due date for reporting of this period.

In addition, the report filed by Mr. Pelz on October 9, 2001 did not include interest of approximately \$74.53 received during September 2001. The “cash on hand” balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$670.77 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 360 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amounts during September 2001.

Under RCW 42.17.080(2)(a), Mr. Pelz was required to file a 7 day pre-general report on October 30, 2001, and report all receipts and expenditures up through October 29, 2001. Mr. Pelz spent \$2,224.12 during this period. Mr. Pelz filed a C4 report and supporting schedules on November 13, 2001, which was 15 days after the due date. Mr. Pelz also unreported total expenditures to date on this report by \$11,708.80 (\$45,480.95 versus the correct figure of \$57,189.75), and also overreported his “cash on hand”

balance by \$10,513.80 (\$24,617.52 versus the correct figure of \$14,103.72). This error was not corrected until October 11, 2001, or 346 days after the report was due.

In addition, the report filed by Mr. Pelz on November 13, 2001 did not include interest of approximately \$74.53 received during October 2001. The "cash on hand" balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$745.30 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 346 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amounts during October 2001.

Mr. Pelz reported \$4,327.22 in receipts and \$382.48 in expenses for November 2001. Under RCW 42.17.080(2)(c), Mr. Pelz was required to file a C4 report and supporting schedules by December 10, 2001. However, Mr. Pelz did not file this report until December 20, 2001, or 10 days after the due date. Mr. Pelz also unreported total expenditures to date on this report by \$13,932.92 (\$43,639.31 versus the correct figure of \$57,572.23), and also overreported his "cash on hand" balance by \$12,737.92 (\$30,786.38 versus the correct figure of \$18,048.46). This reporting error was not corrected until October 11, 2001, or 305 days after the report was due.

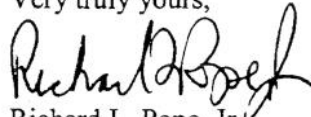
In addition, the report filed by Mr. Pelz on December 20, 2001 did not include interest of approximately \$74.53 received during November 2001. The "cash on hand" balance also fails to include \$622.05 in interest received during 1999 and 2000, and approximately \$819.83 year-to-date interest received during 2001. Mr. Pelz did not report any of these interest receipts until October 11, 2002, or 305 days after this report was due. And the October 11, 2002 report only showed the total interest earned during 2001, and not the amounts during November 2001.

If enforcement action is not commenced by filing a civil action in court in the name of the State of Washington, within forty-five days of your receipt of this written notification, I reserve my right under RCW 42.17.400(4) to give a second written notification that I will commence citizen's action in the name of the State of Washington over these matters if there has been further failure to so act within ten days of the receipt of such second written notification, and thereafter commence a civil action on my own initiative in the name of the State of Washington over these matters.

I am also forwarding a copy of this citizen action letter to the prosecuting attorneys of King County, since the King County Council race was conducted in that county, and to the Thurston County Prosecuting Attorney, since that is where PDC reports are filed.

Thank you for your careful attention in this matter.

Very truly yours,


Richard L. Pope, Jr.

Enclosures (sent via e-mail only, in order to conserve paper):

1. C1 Candidate Registration, filed January 13, 1999
2. C1 Candidate Registration, filed December 15, 2000
3. C4 Report and Schedule A, filed February 12, 2001
4. C4 Report and Schedule A, filed March 14, 2001

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5. C4 Report and Schedule A, filed April 12, 2001
6. C4 Report and Schedule A, filed May 11, 2001
7. C4 Report and Schedule A, filed July 10, 2001
8. C4 Report and Schedule A, filed August 10, 2001
9. C3 Report for \$2,225.00 on July 20, 2001, filed August 10, 2001
10. C3 Report for \$1,000.00 on July 30, 2001, filed August 10, 2001
11. C3 Report for \$925.00 on July 30, 2001, filed August 10, 2001
12. C3 Report for \$375.00 on August 15, 2001, filed August 18, 2001
13. C3 Report for \$6,000.00 on August 15, 2001, filed August 18, 2001
14. C4 Report and Schedule A, filed August 28, 2001
15. C4 Report and Schedule A, filed September 12, 2001
16. Letter from Washington NARAL PAC, filed September 12, 2001
17. C4 Report and Schedule A, filed October 9, 2001
18. C4 Report and Schedule A, filed November 13, 2001
19. C4 Report, Schedule A and Schedule B, filed December 20, 2001
20. C4 Report, filed January 14, 2002
21. Letter from Helen Chatalas, filed October 14, 2002
22. Amended C4 Report and Schedule A, ending 09/30/2001, filed 10/11/2002
23. Amended C4 Report, ending October 30, 2001, filed October 11, 2002
24. Amended C4 Report, ending November 30, 2001, filed October 11, 2002
25. Amended C4 Report, ending December 31, 2001, filed October 11, 2002
26. C4 Report and Schedule A, ending August 31, 2002, filed October 11, 2002
27. C3 Report for \$1,516.39 on January 6, 2002, filed October 11, 2002
28. C3 Report for \$170.23 on April 10, 2002, filed October 11, 2002
29. C3 Report for \$47.76 on May 10, 2002, filed October 11, 2002
30. C3 Report for \$63.01 on June 10, 2002, filed October 11, 2002
31. C3 Report for \$61.81 on July 10, 2002, filed October 11, 2002
32. C3 Report for \$44.50 on August 10, 2002, filed October 11, 2002
33. C4 Report and Schedule A, ending September 30, 2002, filed October 10, 2002

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DECLARATION

I declare under penalty of perjury under the laws of the State of Washington that the above and foregoing is true and correct to the best of my knowledge and belief.

Signed at Bellevue, Washington on February 3, 2006.


RICHARD L. POPE, JR.

Cc: Vicki Rippie
Executive Director
Public Disclosure Commission
711 Capitol Way, Room 206
Post Office Box 40908
Olympia, Washington 98504-0908

Honorable Norman K. Maleng
King County Prosecuting Attorney
516 Third Avenue, Room W-554
Seattle, Washington 98104

Honorable Robert M. McKenna -- Page 7
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Honorable Edward G. Holm
Thurston County Prosecuting Attorney
2000 Lakeridge Drive, S.W., # 2
Olympia, Washington 98502

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